

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE ENROLLED ACT No. 1755

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AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 25-1-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A practitioner shall comply with the standards established by the board regulating a profession. A practitioner is subject to the exercise of the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that:

- (1) a practitioner has:
  - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
  - (B) engaged in fraud or material deception in the course of professional services or activities; or
  - (C) advertised services or goods in a false or misleading manner;
- (2) a practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;
- (3) a practitioner has knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which

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the practitioner is licensed;

(4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

(8) a practitioner has assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(9) a practitioner has allowed a license issued by a board to be:

(A) used by another person; or

(B) displayed to the public when the license has expired, is inactive, or has been revoked or suspended.

(b) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the board may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the board. An applicant who is aggrieved by a decision of the board under this section is entitled to hearing and appeal rights under the Indiana administrative rules and procedures act (IC 4-21.5).

**(c) The board may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law.**

~~(e)~~ **(d)** A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7) **or subsection (c).**



SECTION 2. IC 25-8-2-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9.5. (a) "Esthetician" means a person who engages solely in one (1) or more of the following practices:

- (1) Giving facials, applying makeup, **and** giving skin care. ~~and removing hair by tweezing, depilatory, or waxing.~~
- (2) Beautifying, massaging, or cleaning the body with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (3) Removing superfluous hair from the body by the use of depilatories, waxing, or tweezers.

(b) The term does not include performing any of the acts described in subsection (a):

- (1) in treating an illness or a disease;
- (2) as a student in a cosmetology school that complies with the notice requirements under IC 25-8-5-6;
- (3) without compensation; or
- (4) incident to the retail sale of cosmetics.

SECTION 3. IC 25-8-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. ~~"Cosmetology"~~ "Instructor" means a person licensed under IC 25-8-6 to teach **in a cosmetology school.**

SECTION 4. IC 25-8-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 17. "Shampoo operation" means performing any of the following acts on the head only:**

- (1) Applying shampoo, conditioner, or rinses.**
- (2) Massaging the scalp.**
- (3) Rinsing the hair and scalp.**

SECTION 5. IC 25-8-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 18. "Shampoo operator" means a person licensed under IC 25-8-12 to perform shampoo operation.**

SECTION 6. IC 25-8-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application described in section 2 of this chapter must state that:

- (1) **as a requirement for graduation**, the proposed school will require its students to successfully complete at least ~~the~~ one thousand five hundred (1,500) hours of course work ~~as a requirement for graduation; required to be eligible to sit for the licensing examination;~~
- (2) no more than eight (8) hours of course work may be taken by a student during one (1) day;



(3) the course work will instruct the students in all theories and practical application of cosmetology including the:

- (A) histology of hair, skin, muscles, and nerves;
- (B) structure of the head, face, neck, arms, and hands;
- (C) structure of legs and feet for electrologists and pedicurists;
- (D) elementary chemistry of sterilization and antiseptics; and
- (E) diseases of the skin, hair, and glands; the students' specific course of study;

(4) the school will provide one (1) instructor for each twenty (20) students or any fraction of that number;

(5) the school will be operated under the personal supervision of a licensed cosmetologist instructor;

(6) the person has obtained any building permit, certificate of occupancy, or other planning approval required under IC 22-15-3 and IC 36-7-4 to operate the school;

(7) the school, if located in the same building as a residence, will:

- (A) be separated from the residence by a substantial floor to ceiling partition; and
- (B) have a separate entry; and

(8) the applicant has paid the fee set forth in IC 25-8-13-3.

SECTION 7. IC 25-8-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) If a student in a cosmetology school presents to the school a valid license issued by the board, the school shall accept and provide credit toward the student's current program for the hours completed in a cosmetology school in the theory and demonstration, or actual practice, of any of the following subjects:**

- (1) Electricity (basic electricity).
- (2) Facials.
- (3) Hair coloring (color rinses).
- (4) Hair removal.
- (5) Makeup.
- (6) Manicuring.
- (7) Pedicuring.
- (8) Salesmanship (salesmanship and marketing).
- (9) Sanitation (infection control or bacteriology).
- (10) Scalp treatment.
- (11) Skin (skin care).
- (12) Shampooing (shampoo rinsing).
- (13) Hair coloring (weekly rinses).
- (14) Other areas as determined by the board.



**(b) The school shall credit the appropriate subject areas on a student's transcript for the hours transferred under subsection (a).**

**(c) A student may not transfer any hours of credit above the amount required in each subject area under the student's current program.**

**(d) The student may receive credit for the number of hours that the student's current program requires in the subject areas covered by the student's license, even if the number of hours required under the current program is greater than the actual number of hours completed when the student's license was earned.**

SECTION 8. IC 25-8-6.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application described in section 2 of this chapter must require that the applicant:

- (1) be at least eighteen (18) years of age;
- (2) has graduated from high school or received the equivalent of a high school education;
- (3) hold an esthetician license issued under this article;
- (4) has completed the education and experience requirements subject to the rules adopted by the board;
- (5) has not committed an act for which the applicant could be disciplined under IC 25-8-14;
- (6) has received a satisfactory grade (as defined in IC 25-8-4-9) on an examination for ~~esthetics~~ instructor license applicants prescribed by the board; and
- (7) has paid the fee under IC 25-8-13-4 for the issuance of a license under this chapter.

SECTION 9. IC 25-8-6.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application described in section 2 of this chapter must require that the applicant:

- (1) be at least eighteen (18) years of age;
- (2) has graduated from high school or received the equivalent of a high school education;
- (3) hold an electrologist license issued under this article;
- (4) has completed the education and experience requirements subject to the rules adopted by the board;
- (5) has not committed an act for which the applicant could be disciplined under IC 25-8-14;
- (6) has received a satisfactory grade (as defined in IC 25-8-4-9) on an examination for ~~electrology~~ instructor license applicants prescribed by the board; and
- (7) has paid the fee under IC 25-8-13-4 for the issuance of a license under this chapter.



SECTION 10. IC 25-8-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) A person holding a license issued under IC 25-8-7, IC 25-8-7.1, ~~or~~ IC 25-8-7.2, **or IC 25-8-12.6** shall display a sign complying with standards prescribed by the board at the main public entrance to the ~~cosmetology~~ salon.

(b) The sign must:

- (1) be clearly visible to a customer entering the establishment at that entrance; and
- (2) state in legible printing that the establishment is a structure licensed as one (1) of the following:
  - (A) Cosmetology salon.
  - (B) Electrology salon.
  - (C) Manicuring salon.
  - (D) Esthetic salon.**

SECTION 11. IC 25-8-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application described in section 2 of this chapter must state that the applicant:

- (1) is at least eighteen (18) years of age;
- (2) has successfully completed the tenth grade or received the equivalent of tenth grade education;
- (3) has graduated from **a cosmetologist program in a** cosmetology school;
- (4) has received a satisfactory grade (as defined by IC 25-8-4-9) on an examination for cosmetologist license applicants prescribed by the board;
- (5) has not committed an act for which the applicant could be disciplined under IC 25-8-14; and
- (6) has paid the fee set forth in IC 25-8-13-7 for the issuance of a license under this chapter.

SECTION 12. IC 25-8-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The application described in section 3 of this chapter must state that the applicant:

- (1) is at least ~~seventeen (17) years and six (6) months~~ **eighteen (18) years** of age;
- (2) has successfully completed the eighth grade or received the equivalent of an eighth grade education;
- (3) has ~~successfully completed at least three hundred (300) hours of instruction in the theory and practice of manicuring as a student in~~ **graduated from a manicurist program in a** cosmetology school;
- (4) has received a satisfactory grade (as defined by IC 25-8-4-9) on an examination for manicurist license applicants prescribed by



the board;

(5) has not committed an act for which the applicant could be disciplined under IC 25-8-14; and

(6) has paid the fee set forth in IC 25-8-13-9 for the issuance of a license under this chapter.

SECTION 13. IC 25-8-11-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 7. (a) A person licensed under this article may not use acrylic liquid monomer formulated with methyl methacrylate (MMA).**

**(b) A person who violates subsection (a) may be disciplined under IC 25-1-11.**

SECTION 14. IC 25-8-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.** The application described in section 2 of this chapter must state that the applicant:

(1) is at least ~~seventeen (17) years and six (6) months~~ **eighteen (18) years** of age;

(2) has successfully completed the eighth grade or received the equivalent of an eighth grade education;

(3) has ~~successfully completed at least three hundred (300) hours of instruction in the theory and practice of shampoo operation as a student graduated from a shampooing program~~ in a cosmetology school;

(4) has received a satisfactory grade (as defined by IC 25-8-4-9) on the examination for shampoo operator license applicants prescribed by the board;

(5) has not committed an act for which the applicant could be disciplined under IC 25-8-14; and

(6) has paid the fee set forth in IC 25-8-13-10 for the issuance of a license under this chapter.

SECTION 15. IC 25-8-12.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 4. (a) Subject to subsection (b) and** Except as provided in section 7 of this chapter, to receive a license issued under this chapter, a person must:

(1) be at least eighteen (18) years of age;

(2) have successfully completed the tenth grade or received the equivalent of a tenth grade education;

(3) have ~~successfully completed at least seven hundred (700) hours of instruction in the theory and practice of esthetics as a student graduated from an esthetics program~~ in a cosmetology school;

(4) have received a satisfactory grade (as defined by IC 25-8-4-9)



on an examination for esthetician license applicants prescribed by the board;

(5) not have committed an act for which the person could be disciplined under IC 25-8-14; and

(6) pay the fee set forth in IC 25-8-13-11 for the issuance of a license under this chapter.

~~(b) If an applicant demonstrates acceptable experience or knowledge in the theory and practice of esthetics, the board may waive or modify the requirements of subsection (a)(3).~~

SECTION 16. IC 25-9-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) Every person, club, corporation, firm, or association which may conduct any match or exhibition under this chapter shall, within twenty-four (24) hours after the termination thereof:

(1) furnish to the Indiana professional licensing agency by mail, a written report duly verified by that person or, if a club, corporation, firm, or association, by one (1) of its officers, showing the amount of the gross proceeds for the match or exhibition, and other related matters as the commission may prescribe; and

(2) pay a tax of five percent (5%) of the price of admission collected from the sale of each admission ticket to the match or exhibition, which price shall be a separate and distinct charge and shall not include any tax imposed on and collected on account of the sale of any such ticket. Money derived from such state tax shall be deposited in the state general fund.

~~(b) Before any license shall be granted to any person, club, corporation, or association to conduct, hold, or give for any boxing or sparring match, semiprofessional elimination contest, or exhibition or before any person conducts any wrestling match or exhibition in this state, such applicant or person shall execute and file with the treasurer of state a bond or other instrument that provides financial recourse must be provided to the state boxing commission. The instrument must be:~~

~~(1) in the sum of not less than ten thousand dollars (\$10,000) which may be increased by order of an amount determined by the commission;~~

~~(2) approved as to form and sufficiency of the sureties thereon by the treasurer of state; commission;~~

~~(3) payable to the state of Indiana; and~~

~~(4) conditioned for the payment of the tax imposed, the officials and contestants, and the compliance with this chapter and~~





compliance with the valid rules of the commission.

Upon the filing and approval of the bond, the treasurer of state shall issue to the applicant or person a certificate and duplicate thereof of such filing and approval, one (1) of which shall be by the applicant filed with the licensing agency with the application for such license; and no license under this chapter shall be issued until the certificate shall have been filed.

SECTION 17. IC 25-21.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The board shall determine the amount of registration fees for a land surveyor and certification fees for a land-surveyor-in-training. Except as provided under IC 25-21.5-8-7, the registration and renewal fee for a land surveyor ~~must be at least~~ **may be not more than** fifty dollars (\$50) per year.

SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) 820 IAC 4-4-3 is void.**

**(b) The publisher of the Indiana Administrative Code and Indiana Register shall remove this section from the Indiana Administrative Code before August 1, 1999.**

**(c) This SECTION expires on September 1, 1999.**

SECTION 19. An emergency is declared for this act.

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